

REMARKS

In response to the non-final Office Action dated August 7, 2007, Applicants submit that all pending claims are allowable in view of the prior art of record. Applicants also note that the present Office Action is in response to a previously-filed Notice of Appeal and subsequent Appeal Brief.

All pending claims 1-6, 8-10 and 12-14 stand rejected under 35 U.S.C. §103(a). Claims 1-6, 9-10 and 12-14 are rejected based on the combination of U.S. Published Application No. 2002/0004733 (Addante) in view of U.S. Patent No. 6,070,190 (Repps). Claim 8 stands rejected based on the combination of Addante, Repps and U.S. Patent No. 6,044,398 (Marullo).

As understood, Addante relates to a system the provides advertising and the stealth installation of cookies on a user computer 100. The cookies track user activities relating to advertisements, sending this tracked information back to the ad server 106. The ad server 106 then can determine user characteristics with respect to advertisements, for example if a user selected an ad, where the user went when the ad was selected, etc.

Claim 1 explicitly recites a transaction data file that “records the one or more steps,” where this transaction data file is then provided to the second computer. The second computer executes the “one or more steps” “to thereby replicate the transaction performed by the user.”

Addante is absolutely silent regarding this limitation. Addante merely logs the user’s activities and this information can then be used to make determinations about advertising activities. Addante does not, on a second computer, execute the steps in the log, e.g. accessing an advertiser’s web page, and hence does not replicate the transactions.

In support of this rejection and the assertion that Addante teaches or suggests replicating the transactions, the Examiner cites to ¶¶ 22, 31 and 38, to which Applicants disagree. Paragraph 22 describes various embodiments of the ad server 106, such as recording the user activity, which is wholly inconsistent with replicating the activity. Paragraphs 31 and 38 merely describe formatting used for the ad server cookies, where this encoding allows for determining user activities, **not** replicating the activities.

Applicants further submit that one having ordinary skill in the art not have been motivated to combine Addante and Reps because Addante specifically teaches away from any such combination. As discussed above, Addante does not “replicate” the user activities, therefore there would be absolutely no way for the Reps system to determine a service level. In other words, the Reps system could not determine a service level because the Addante system does not log data allowing for a service level determination. Rather, as noted above, the transaction log data of Addante relates solely to which advertisements (or creatives) the user selected and which subsequent web sites were visited.

Therefore, the rejection of claim 1 as being unpatentable over the obvious combination of Addante and Reps is improper. Should the Examiner maintain the present rejection, Applicants request a showing, including an explicit listing of column and line numbers, of specifically where Addante teaches the limitation of “executing the one or more steps using the one or more parameters to thereby replicate the transaction performed by the user.”

Regarding claims 2-6, 8-10 and 12-14, these claims depend from claim 1 and recite further patentable subject matter therefrom. These claims are allowable for at least the same reasons as noted above.

Conclusion

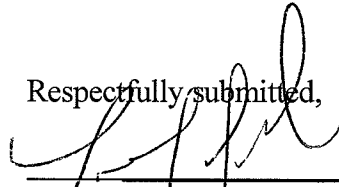
For these reasons, the applicants respectfully request that the Examiner withdraw the rejections as they might be applied to the claims as pending following entry of this amendment and allow the claims. To expedite prosecution of this application to allowance, the Examiner is invited to call the applicants' undersigned representative to discuss any issues relating to this application.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to our Deposit Account No. 50-4026 if required in the submission of this Amendment.

Dated: November 7, 2007

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY THROUGH
THE PATENT AND TRADEMARK OFFICE EFS
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Respectfully submitted,



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